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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,761	11/26/2003	John Gavin MacDonald	KCX-1068 (19800)	9700
22827 7590 08/22/2007 DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			EXAMINER CHAPMAN, GINGER T	
			ART UNIT 3761	PAPER NUMBER
			MAIL DATE 08/22/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/723,761

Applicant(s)

MACDONALD ET AL.

Examiner

Ginger T. Chapman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17, 18, 22-28, 32 and 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17, 18, 22-28, 32 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6 August 2007 has been entered.

Drawings

The examiner notes that in the previous Office action, mail date 4 December 2006, the objection to the drawings, made of record in Office actions mail dates 2 August 2006, 21 December 2005 and 9 June 2005, for failing to show every feature of the invention specified in the claims was withdrawn in view of Applicants' argument that the "tissue wrap 37" may be synonymous with the odor sorbent substrate. However, the objection to the drawings as being of insufficient quality for reproduction made of record 9 June 2005 was not withdrawn and for purposes of clarity and advancing prosecution, is repeated *infra*.

The drawings are objected to under 37 CFR 1.84(l). All drawings must be made by a process which gives them satisfactory reproduction characteristics. Every line, number, and letter must be durable, clean, black, sufficiently dense and dark, and uniformly thick and well-defined. The weight of all lines and letters must be heavy enough to permit adequate reproduction. This requirement applies to all lines however fine, to shading, and to lines

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representing cut surfaces in sectional views. Lines and strokes of different thicknesses may be used in the same drawing where different thicknesses have a different meaning.

The scale to which a drawing is made must be large enough to show the mechanism without crowding when the drawing is reduced in size to two-thirds in reproduction.

Numbers, letters and reference characters must measure at least 0.32 cm (1/8 inch) in height.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim language interpretation

It is noted that the terminology "wrapped around" has not been specifically defined by the Applicants and thus will be given their broadest customary interpretation, i.e. the dictionary definition, in light of the specification. Careful review of the Specification reveals that the only instance "wrapped around" is defined is in the text of claim 33, "wrapped around the absorbent core so that one or more sides of the core are left open", and in Figure 2. The dictionary

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definitions, *inter alia*, of: “wrap”, i.e. “to cover”, and of, “around”, i.e. “on all or various sides”.

Therefore, in light of the specification and dictionary definition, the terminology “wrapped around” is considered as covered so that one or more sides are left open.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 17-18, 28 and 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujinami et al (US 3,939,838) in view of Hu et al (US 6,740, 406 B2) and further in view of Tanzer et al (EP 348,978).

With respect to claim 17, Fujinami et al, in Figures 2, 5 and 6, disclose a personal care product (21, 51, 61) comprising a liquid impervious baffle (25, 55, 65), a liquid pervious liner (22, 52, 62), an absorbent core (23, 53, 63) positioned between baffle and liner, and an odor sorbent substrate in the form of a sheet (26, 56, 66) that comprises activated carbon particles (col. 4, l. 10) and binder (col. 3, l. 50-53) positioned between the baffle (25) and the core (23) (fig. 2).

Fujinami discloses the claimed invention except the Fujinami sheet comprising the substrate has an inner surface into which the carbon is mixed, thus the inner surface of the odor sorbent substrate sheet can be said to be coated. Preemptively, Fujinami does not expressly disclose an exterior surface coated with carbon. Fujinami, at c. 2, ll. 15-25, expresses the desirability of an odor sorbent substrate in the form of sheets comprising carbon particles and binder for odor adsorption in personal care products. Hu et al, at c. 1, ll. 5-25, teach that

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activated carbon is well known in the absorbent article art for its odor sorbent properties and expresses the motivation to achieve desirable improvements in the function of the activated carbon material. Hu, c. 3, ll. 5-25, teaches that activated carbon can be beneficially used for odor control in absorbent articles such as diapers and sanitary napkins. Hu, at c. 3, l. 30, teaches the carbon can take equivalent forms such as a fabric, or bonded to a fabric, web or film, thus disclosing a desire for such. Hu, at c. 4, ll. 34-40, teaches that one or both surfaces of the fabric can be coated by many known and equivalent methods for purposes of coating fabrics or webs.

At c. 7, ll. 55-68, in particular ll. 64-66, Hu teaches fabrics having a surface that is coated with a durable activated carbon ink comprising activated carbon particles and a binder (c. 9, l. 6 to c. 10, l. 15), in particular teaching styrene-acrylic as recited in claim 28 (c. 10, l. 9). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the substrate of Fujinami coated as taught by Hu since Hu states at c. 3, ll. 11-4 and l. 35 that these substrates can be beneficially used directly in the central target zone of diapers and sanitary napkins.

With respect to the limitation of “consisting essentially of”, Hu discloses a durable ink substantially as claimed although further discloses optional additional components to obtain optional properties in the ink that are unrelated and therefore unnecessary to the functions of odor control and binding. Additionally, Hu teaches the embodiment consisting of only carbon particles and binder at c. 19, ll. 20-22. In view of the teachings of Hu, it would have been obvious to form the ink consisting of activated carbon particles and binder since it has been held that omission of an element and its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson*, 136

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USPQ 184. In this instance if the optional functions were not desired, the remaining carbon particles and binder would perform their same known functions with predictable results.

Therefore the limitation “consisting essentially of” does not improve the nonobviousness and therefore the patentability of the invention as claimed.

Fujinami/Hu teach the claimed invention except for the substrate wrapped around the absorbent core. Manoussos et al, at c. 1, ll. 35-44, expresses the desire to provide a sanitary napkin comprising an absorbent core having a fluid permeable outer portion as an odor sorbent for contact with the vaginal area. As seen in Examples 2 and 3 (c. 4), Manoussos teaches an odor sorbent substrate wrapped around an absorbent core (c. 3, ll. 24-25). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the substrate of Fujinami/Hu wrapped around the core as taught by Manoussos since Manoussos states at c. 3, ll. 3-6 that the benefit of forming the sanitary napkin with this design is that the outer layer. i.e. (odor sorbent) substrate, is what comes in contact with the pelvic region, thereby increasing the surface area available for adsorption.

With respect claim 19, Fujinami/Hu/Manoussos teach the personal care product is diapers and feminine hygiene products.

With respect to claim 28, Hu teaches styrene-acrylic binder (c. 10, l. 9).

With respect to claim 32, Hu teaches the ink is applied to the substrate as an aqueous solution (c. 4, ll. 34-40).

With respect to claim 33, Fujinami teach the substrate positioned between the baffle and the absorbent core and wrapped around the bottom side of the core, thus one or more sides of the core are left open from the substrate as recited in claim 33.

Claims 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujinami/Hu/Manoussos as applied to claim 17 above, and further in view of Giglia et al (US 4,565,727).

With respect to claim 22-24, Fujinami/Hu/Manoussos teach the activated carbon particles are present in an effective amount but do not explicitly disclose ranges. Giglia, at c. 1, ll. 20-25, expresses the desire to provide sorbent substrates comprising carbon that will not lose their carbon particles over time. As seen at c. 1, l. Giglia teaches activated carbon particles are 15-80 wt. % of the substrate for increased sorption, which encompasses between about 5 and 75 wt % and between about 10 and 30 wt. %. Therefore the greater the desired absorption, the greater the amount of activated carbon particles. Additionally, Fujinami teaches an amount of 1-8 wt. % (c. 3, l. 49). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the activated carbon particles of Fujinami/Hu/Manoussos in the claimed ranges for the desired degree of adsorptiveness with a reasonable expectation of success since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum ranges of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

With respect to claims 25-27, Hu teaches the substrate contains a film (c. 3, l. 30), nonwoven, coform web (c. 7, l. 56). Giglia teaches where the substrate contains a wet-laid web

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(c. 1, l. 36) and paper (c. 3, l. 51-53). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the materials of the prior art comprising paper since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Response to Arguments

Applicant's arguments with respect to claims 17-18, 22-28 and 32-33 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yeo et al (US 5,122,407) teaches a personal care product sanitary napkin comprising an absorbent core with an odor sorbent substrate wrapped around the absorbent core so that one or more sides of the core are left open (fig. 1).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571) 272-4934. The examiner can normally be reached on Monday through Friday 9:30 a.m. to 6:00 p.m..


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ginger Chapman
Examiner, Art Unit 3761
08/17/07




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8/20/07